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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named

Inventor : Tzu-Chen Lee

Appln. No. : 10/809,135

Filed : March 25, 2004

Title : ORGANIC SCHOTTKY DIODE

Docket No. : 58994US002 (M550.12-0071)

Group Art Unit: 2811

Examiner: VU, Hung K.

CERTIFICATION OF TELEFACSIMILE TRANSMISSION

Fax No.: (571) 273-8300

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Trademark Office on the date shown below:

1. Supplemental Response.

KINNEY & LANGE, P.A.

Date:

5/24/06

By:



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SUPPLEMENTAL RESPONSE

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SENT VIA FACSIMILE
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This is in response to an Office Action mailed on September 8, 2005, in which two species of the claimed invention were identified, and Applicant was required to elect a single disclosed species for prosecution on the merits. In addition, the following procedural history has occurred in this patent application:

- A response to the Office Action of September 8, 2005 was filed on October 4, 2005, electing the species of claims 1-18 and noting that claims 1-8 were generic to both species.
- A notice indicating that the response filed on October 4, 2005 was not fully responsive was mailed on December 15, 2005. This notice contended that the claims readable on the elected species were not identified in the response.
- The undersigned contacted the Examiner by telephone on January 4, 2006, and pointed out that the response filed on October 4, 2005 did in fact identify the claims readable on the elected species (claims 1-18), as well as pointing out that claims 1-8 were generic to both species. In the telephone conference, the Examiner pointed out that

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the response indicated that embodiment 2 was being elected, when in fact claims 1-18 appeared to read on embodiment 1. The undersigned and the Examiner agreed that the correct embodiment to be elected was embodiment 1, and that the identified elected claims (1-18) read on embodiment 1. The Examiner agreed to make this change himself, so that no further action was required by the Applicant.

- The Examiner has now recently requested that the Applicant submit a paper that confirms the election of embodiment 1 (upon which claims 1-18 read), due to difficulties in counting an Office Action on the merits following the notice that was mailed by the Office.

This Supplemental Response is submitted at the request of the Examiner, confirming the election of embodiment 1, with traverse. Claims 1-18 read on elected embodiment 1. Claims 1-8 are generic to both embodiment 1 and embodiment 2.

As stated in the response filed on October 4, 2005, Applicant disagrees that the application discloses separate and distinct inventions requiring election therebetween and respectfully requests reconsideration of the restriction requirement. The invention is an organic Schottky diode. A diode is an electronic device that includes a rectifying contact and an ohmic contact. The application contains three independent claims: claim 1 claims a diode including four layers; claim 9 claims the same four layers as claim 1, but built upon a substrate; and claim 19 claims the same four layers as claim 1, but built upon a substrate in the opposite order as in claim 9. The two alleged embodiments identified in the restriction requirement were: embodiment 1, which has the ohmic contact of the diode in contact with the substrate and embodiment 2, which has the rectifying contact of the diode in contact with the substrate. However, claim 1 does not include a substrate. Therefore, it is not included in either embodiment identified in the Office Action, and it is broader than any embodiment identified in the Office Action.

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The Examiner stated that there is no generic claim in the application. However, this is incorrect because claim 1 is clearly a generic claim. While 35 U.S.C. § 121 provides that restriction may be required to one of two or more independent and distinct inventions, 35 C.F.R. § 1.141 provides that a reasonable number of species may still be claimed in one application. See M.P.E.P. 801.04(a). 37 C.F.R. 1.141 allows that a reasonable number of species may be specifically claimed in different claims "provided the application also includes an allowable claim generic to all the claimed species and all the claims to species in excess of one are written in dependent form or otherwise include all the limitations of the generic claim." In the present application, claim 1 is a generic claim. Claims 9-18 and claims 19-27 include all of the limitations of generic claim 1. Therefore, pursuant to 37 C.F.R. § 1.141, Applicant is allowed to claim the two species of claims 9-18 and claims 19-27 in addition to generic claim 1.

For all of the foregoing reasons, Applicant believes that the restriction requirement should be withdrawn. Reconsideration and notice to that effect is respectfully requested.

Respectfully submitted,

KINNEY & LANGE, P.A.

Date: 5/24/06By: Alan M. Koenck

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